



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706-1255 • (208) 373-0502

November 29, 2000

Dink Kempthorne, Governor
C. Stephen Alfred, Director

Mr. Jerry Lyle, Assistant Manager
Environmental Management
U.S. Department of Energy
Idaho Operations Office
850 Energy Drive
Idaho Falls, Idaho 83401-1563

Mr. Michael Gearheard, Director
Office of Environmental Cleanup
U. S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Re: Response to DOE Letter Dated November 13, 2000 Concerning Statement of Dispute Regarding the SFE-20 Tank.

Dear Mr. Lyle and Mr. Gearheard:

This letter is in response to a letter the Department of Environmental Quality received from the U.S. Department of Energy, Idaho Operations Office (DOE-ID), dated November 13, 2000, requesting that the Dispute Resolution Committee (DRC) be convened to resolve a dispute pursuant to the Idaho National Engineering and Environmental Laboratory (INEEL), Federal Facility Agreement and Consent Order (FFA/CO).

It is our conclusion that the "dispute" identified by DOE-ID is not one arising under the FFA/CO and is not therefore subject to the Dispute Resolution provisions of Section 9.2(a) and (d) of the FFA/CO. DOE-ID's Statement of Dispute confuses DOE's obligations to comply with remedial and corrective action under the FFA/CO with permitting and closure requirements under the Idaho Hazardous Waste Management Act (HWMA). The latter are not within the scope of the FFA/CO. In fact, Section 7.8 of the FFA/CO specifically distinguishes on-going hazardous waste management activities required by HWMA from actions covered by the FFA/CO. DOE's obligation to submit a closure plan for the SFE-20 tank is created in and enforceable under HWMA.

Should you have any questions regarding the above, please contact me at (208) 373-0502.

Sincerely,

Katherine B. Kelly
Administrator
Waste Management and Remediation Division

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cc: Dean Nygard, DEQ
Source File

Brian Monson, DEQ
COF

Darrell Early, Deputy Attorney General